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OFFICE OF PETITIONS

DECISION ON PETITION

In re Application of
Athan Gibbs Sr.
Application No. 09/843,042
Filed: April 25, 2001
Attorney Docket No. 825061-00002

This is a decision on the petition under 37 CFR 1.137(b) filed June 12, 2007, requesting revival of the above-identified application.

The petition is dismissed.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time (and fee) under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)."

This application became abandoned for failure to reply to the Office action of March 19, 2004, which set a statutory period for reply of 3 (three) months. As no extensions of time were obtained under the provisions of 37 CFR 1.136(a), and no reply was filed, this application became abandoned June 20, 2004. A Notice of Abandonment was mailed October 1, 2004.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof; (2) the petition fee required by 37 CFR 1.17(m); (3) an adequate statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) in some instances, a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). This petition lacks item (3) above.

35 U.S.C. § 41(a)(7) authorizes the Commissioner to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a

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Inquiries related to this decision may be made to the undersigned at (571) 272-3217.

A handwritten signature in cursive script, reading "Karen Creasy".

Karen Creasy
Petitions Examiner
Office of Petitions

cc:
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